

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA
3

4 Kelvin L. Spann,

5 Plaintiff

6 v.

7 Bryant Williams, Sr., et al.,

8 Defendants

Case No.: 2:17-cv-02018-JAD-GWF

Order Dismissing Case

9 Pro se plaintiff and Nevada state prisoner Kelvin Spann brings this civil-rights case under
10 § 1983 for events that allegedly occurred during his incarceration at various Nevada state
11 prisons.¹ I screened Spann's original complaint and found that his sole deliberate-indifference-
12 to-serious-medical-needs claim was insufficiently pled.² So, I dismissed the claim without
13 prejudice and gave Spann leave to amend his complaint if he could plead true facts to cure the
14 deficiencies that I identified.³ Spann initially had until April 2, 2018, to file his amended
15 complaint, but that deadline was extended until May 2, 2018.⁴ I warned Spann in the screening
16 order—and Magistrate Judge Foley warned him in the time-extension order—that this case
17 would be dismissed with prejudice if he failed to file an amended complaint.⁵ The extended
18 deadline is two weeks expired, and Spann still has not filed an amended complaint.

19 District courts have the inherent power to control their dockets and “[i]n the exercise of
20 that power, they may impose sanctions including, where appropriate . . . dismissal” of a case.⁶
21 A court may dismiss an action with prejudice based on a party's failure to prosecute an action,

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23 ¹ ECF No. 1-1.

24 ² ECF No. 4 at 5.

25 ³ *Id.* at 7.

26 ⁴ ECF No. 8.

27 ⁵ ECF Nos. 4, 8.

28 ⁶ *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831 (9th Cir. 1986).

1 failure to obey a court order, or failure to comply with local rules.⁷ In determining whether to
2 dismiss an action for lack of prosecution, failure to obey a court order, or failure to comply with
3 local rules, the court must consider several factors: (1) the public's interest in expeditious
4 resolution of litigation; (2) the court's need to manage its docket; (3) the risk of prejudice to the
5 defendants; (4) the public policy favoring disposition of cases on their merits; and (5) the
6 availability of less drastic alternatives.⁸

7 I find that the first two factors—the public's interest in expeditiously resolving the
8 litigation and the court's interest in managing the docket—weigh in favor of dismissing this case.
9 The risk-of-prejudice factor also weighs in favor of dismissal because a presumption of injury
10 arises from the occurrence of unreasonable delay in filing a pleading ordered by the court or
11 prosecuting an action.⁹ The fourth factor is greatly outweighed by the factors favoring
12 dismissal, and a court's warning to a party that his failure to obey the court's order will result in
13 dismissal satisfies the consideration-of-alternatives requirement.¹⁰ Spann was warned—twice—
14 that his case would be dismissed if he failed to submit an amended complaint by the court-
15 ordered deadline. So, Spann had adequate warning that his failure to submit an amended
16 complaint would result in this case's dismissal.

17 Accordingly, IT IS HEREBY ORDERED that this action is **DISMISSED with**
18 **prejudice** based on Spann's failure to file an amended complaint and for failure to state a claim.

19 IT IS FURTHER ORDERED that the application to proceed *in forma pauperis* [ECF No.
20 **1]** is **DENIED as moot**.

21 ⁷ See *Ghazali v. Moran*, 46 F.3d 52, 53–54 (9th Cir. 1995) (dismissal for noncompliance with
22 local rule); *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260–61 (9th Cir. 1992) (dismissal for failure to
23 comply with an order requiring amendment of complaint); *Carey v. King*, 856 F.2d 1439, 1440–
24 41 (9th Cir. 1988) (dismissal for failure to comply with local rule requiring pro se plaintiffs to
keep court apprised of address); *Malone v. U.S. Postal Service*, 833 F.2d 128, 130 (9th Cir.
1987) (dismissal for failure to comply with court order); *Henderson v. Duncan*, 779 F.2d 1421,
1424 (9th Cir. 1986) (dismissal for lack of prosecution and failure to comply with local rules).

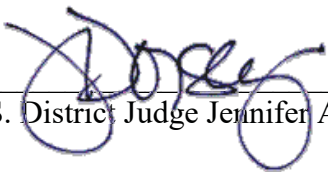
25 ⁸ *Thompson*, 782 F.2d at 831; *Henderson*, 779 F.2d at 1423–24; *Malone*, 833 F.2d at 130;
26 *Ferdik*, 963 F.2d at 1260–61; *Ghazali*, 46 F.3d at 53.

27 ⁹ See *Anderson v. Air West*, 542 F.2d 522, 524 (9th Cir. 1976).

28 ¹⁰ *Ferdik*, 963 F.2d at 1262; *Malone*, 833 F.2d at 132–33; *Henderson*, 779 F.2d at 1424.

1 The Clerk of Court is directed to **ENTER JUDGMENT** accordingly and CLOSE THIS
2 CASE.

3 Dated: May 16, 2018

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5 U.S. District Judge Jennifer A. Dorsey
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